

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

BIOFER S.P.A.,)
Plaintiff,)
v.) Civil Action No. 1:22-CV-02180-AMD-SJB
Defendant.)

)

JOINT DISPUTED CLAIM TERMS CHART

Pursuant to the Court's Local Patent Rules and Order (D.I. 27), the parties hereby submit the attached Joint Disputed Claim Terms Chart (Exhibit A) with respect to the asserted claims of U.S. Patent No. 8,759,320.

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EXHIBIT A

JOINT DISPUTED CLAIM TERMS CHART PURSUANT TO LOCAL PATENT RULE 11

U.S. Patent No. 8,759,320 (Asserted Claims 1-16, 19-21, 23-25)			
Claim Term(s)	Plaintiff Biofer's Proposed Construction	Defendant Vifor's Proposed Construction	Cross Reference(s) to Initial Contentions
(1) "said hypochlorite being added in stoichiometric quantities with respect to the aldehyde end groups" (Claim 1)	Plain and ordinary meaning	"hypochlorite being added in 1:1 molar ratio with respect to the aldehyde end group of the sugar"	Infringement Contentions ¹ : pp. 3-6, Ex. A at 8-9. Invalidity Contentions ² : pp. 6-19 (including, e.g., p. 9 (referencing cl. 1), p. 10 (referencing incorporation of IPR2022-01608 Petition)), 32-34, 35-39; IPR2022-01608, Paper No. 1 (P.T.A.B. Sep. 30, 2022) (VIFOR_00022353-VIFOR_00022435), incorporated by reference in Vifor's Initial Invalidity Contentions, at e.g., VIFOR_00022358; VIFOR_00022366; VIFOR_00022390; VIFOR_00022404-406; and VIFOR_00022426. Vifor's Supplemental Responses to Biofer's First Rogs ³ : pp. 24-26 (Response to Interrogatory No. 4).
(2) "pH between 7.0 and 9.0" (Claim 1)	"pH range of between 6.8 and 9.2"	"pH is maintained in the interval separating 7.0 and 9.0"	Infringement Contentions : pp. 3-6, Ex. A at 4-5. Invalidity Contentions : pp. 6-19 (including, e.g., p. 9 (referencing cl. 1), p. 10 (referencing incorporation of IPR2022-01608 Petition), pp. 13, 16, 18), 27-28, 32-39;

¹ As used herein "Infringement Contentions" refers to Biofer's Initial Infringement Contentions, dated February 24, 2023.

² As used herein "Invalidity Contentions" refers to Vifor's Initial Invalidity Contentions, dated April 14, 2023.

³ As used herein "Vifor's Supplemental Responses to Biofer's First Rogs" refers to Defendant Vifor (International) AG's Second Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories (Nos. 1 and 4) and First Supplemental Objections and Responses to Plaintiff's First Set of Interrogatories (Nos. 2 and 3), served April 28, 2023.

			IPR2022-01608, Paper No. 1 (P.T.A.B. Sep. 30, 2022) (VIFOR_00022353–VIFOR_00022435), incorporated by reference in Vifor’s Initial Invalidity Contentions, at e.g., VIFOR_00022358; VIFOR_00022366; VIFOR_00022376–378; VIFOR_00022390; VIFOR_00022401–403; and VIFOR_00022426. Vifor’s Supplemental Responses to Biofer’s First Rogs: pp. 18-27 (Response to Interrogatory No. 4).
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JOINT PROPOSED CONSTRUCTIONS FOR CERTAIN CLAIM TERMS

U.S. Patent No. 8,759,320 (Asserted Claims 1-16, 19-21, 23-25)	
Claim Term ⁴	Joint Proposed Construction
(1) “hypochlorite is added instant by instant” (Claim 1)	“hypochlorite is added slowly”

⁴ The parties note that Vifor also identified the claim term “specific oxidation of the end aldehyde” (Claim 1) for construction. The parties agree that this term, and each claim term not identified by the parties for construction, should be given their plain and ordinary meaning to persons of ordinary skill in the art.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 12, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record via transmission of Notices of Electronic Filing generated by CM/ECF.

/s/ Benjamin D. Witte
Benjamin D. Witte